



DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED-2022-OSERS-0038]

Proposed Priority and Requirements--Technical Assistance on
State Data Collection--The Rhonda Weiss National Technical
Assistance Center to Improve State Capacity to Collect,
Report, Analyze, and Use Accurate IDEA Data in Accessible
Formats

AGENCY: Office of Special Education and Rehabilitative
Services, Department of Education.

ACTION: Proposed priority and requirements.

SUMMARY: The Department of Education (Department) proposes
a priority and requirements for the Rhonda Weiss National
Technical Assistance Center to Improve State Capacity to
Collect, Report, Analyze, and Use Accurate IDEA Data in
Accessible Formats (Accessible Data Center) under the
Technical Assistance on State Data Collection program,
Assistance Listing Number 84.373Q. The Department may use
this priority and these requirements for competitions in
fiscal year (FY) 2022 and thereafter. We take this action
to address an identified need for national technical
assistance (TA) to improve the capacity of States to meet
the data collection requirements under Part B and Part C of
the Individuals with Disabilities Education Act (IDEA).
This Accessible Data Center would support States in

collecting, reporting, and determining how to best analyze and use their data in formats that provide equitable access and visualizations to persons with disabilities, particularly those with blindness, visual impairments, motor impairments, and intellectual disabilities. The Accessible Data Center would customize its TA to meet each State's specific needs.

DATES: We must receive your comments on or before [INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by email or those submitted after the comment period. Please submit your comments only one time, in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "Help."

- Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments about the proposed priority and requirements, address them to Richelle Davis,

U.S. Department of Education, 400 Maryland Avenue, SW, room 5025A, Potomac Center Plaza, Washington, DC 20202-5108.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Richelle Davis, U.S. Department of Education, 400 Maryland Avenue, SW, room 5025A, Potomac Center Plaza, Washington, DC 20202-5108. Telephone: (202) 245-7401. Email: Richelle.Davis@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding the proposed priority and requirements. To ensure that your comments have maximum effect in developing the final priority and requirements, we urge you to clearly identify the specific section of the proposed priority or requirement that each comment addresses.

We are particularly interested in comments about whether the proposed priority or any of the proposed requirements would be challenging for new applicants to

meet and, if so, how the proposed priority or requirements could be revised to address potential challenges.

Directed Questions:

1. What are the common challenges or barriers experienced by parents of children with disabilities and other stakeholders with disabilities, particularly those with blindness, visual impairments, motor impairments, and intellectual disabilities, when accessing, exploring, or engaging with IDEA data and other educational data on government websites?

2. What accessibility features and interactive elements of a data reporting system are necessary to allow parents of children with disabilities and other stakeholders with disabilities, particularly those with blindness, visual impairments, motor impairments, and intellectual disabilities, to access and use data to answer their essential questions?

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 to reduce any regulatory burden that might result from the proposed priority and requirements. Please let us know how we could further reduce potential costs or increase potential benefits, while preserving effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about the proposed priority and

requirements by accessing Regulations.gov. You also may inspect the comments in person. To arrange in-person inspection, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed priority and requirements. To schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program: The purpose of the Technical Assistance on State Data Collection program is to improve the capacity of States to meet IDEA data collection and reporting requirements. Funding for the program is authorized under section 611(c)(1) of IDEA. This section gives the Secretary authority to reserve not more than 1/2 of 1 percent of the amounts appropriated under Part B for each fiscal year to provide TA activities authorized under section 616(i) of IDEA, to improve the capacity of States to meet the data collection and reporting requirements under Parts B and C of IDEA. The maximum amount the Secretary may reserve under this set-aside for any fiscal year is \$25,000,000, cumulatively adjusted by the rate of

inflation. For FY 2022, the inflation adjusted amount is \$37,300,000. Section 616(i) of IDEA requires the Secretary to review the data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of section 616 of IDEA are collected, analyzed, and accurately reported to the Secretary. It also requires the Secretary to provide TA, where needed, to improve the capacity of States to meet the IDEA Part B and Part C data collection requirements, which include the data collection and reporting requirements in sections 616 and 618 of IDEA. In addition, the Consolidated Appropriations Act, 2021, Pub. L. 116-260, gives the Secretary authority to use funds reserved under section 611(c) of IDEA to provide TA to States to improve their capacity to administer and carry out other services and activities to improve data collection, coordination, quality, and use under Parts B and C of IDEA.

Program Authority: 20 U.S.C. 1411(c), 1416(i), 1418(c), 1442; and the Consolidated Appropriations Act, 2021, Pub. L. 116-260, 134 Stat. 1182, 1601.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Program Regulations: 34 CFR 300.702.

PROPOSED PRIORITY:

This notice contains one proposed priority.

The Rhonda Weiss¹ National Technical Assistance Center
to Improve State Capacity to Collect, Report, Analyze, and
Use Accurate IDEA Data in Accessible Formats.

Background:

According to the U.S. Census Bureau's 2019 American Community Survey, 12.7 percent of the U.S. Population experiences disability (more than 1 in 8 people). Approximately 2.3 percent, or over 7.4 million, U.S. citizens have a visual disability and 5.2 percent, or close to 16 million U.S. citizens have a cognitive disability. Disability impacts people of all ages, races, ethnicities, geographies, and socio-economic groups.

The purpose of the Accessible Data Center is to improve State capacity to accurately collect, report, analyze, and use the IDEA Part B and Part C data reported under IDEA sections 616 and 618 in accessible formats for persons with disabilities, particularly those with blindness, visual impairments, motor impairments, and intellectual disabilities.

Under the authority of IDEA sections 616 and 618, States are required to collect and analyze data on infants, toddlers, and children with disabilities and report on the data to the Department and the public. Section 504 of the

¹The Center is named in remembrance of Rhonda Weiss, who was a senior attorney with the U.S. Department of Education, a staunch advocate for disability rights, and a champion for ensuring equity and accessibility for persons with disabilities. For more information on Rhonda and her work to ensure equity and accessibility for persons with disabilities please see: <https://www.washingtonpost.com/dc-md-va/2021/12/13/blind-government-lawyer-disabilities-rights/>.

Rehabilitation Act of 1973, as amended (Rehabilitation Act), requires States to publish data in a manner that provides the same access and usability to persons with and without disabilities. Currently, States struggle to report data in accessible formats that also are dynamic and usable by data consumers with limited statistical knowledge. To meet the demands of both statutes, States generally rely on static data portrayals rather than dynamic visualizations. The lack of available software to develop accessible, dynamic and manipulatable data products creates inequitable access for persons with disabilities, particularly those with blindness, visual impairments, motor impairments, and intellectual disabilities.

The Accessible Data Center would increase the capacity of States to collect, report, analyze, and use the IDEA Part B and Part C data reported under IDEA sections 616 and 618 in accessible formats in two ways: (1) by developing an openly licensed software program that allows States to report and publish data products that are accessible, usable, and manipulatable by persons with disabilities, particularly those with blindness, visual impairments, motor impairments, and intellectual disabilities, as well as by those persons without disabilities, and (2) by providing TA on accessible data reporting and publication. By developing an accessible and usable data reporting platform and supporting States as they revise their data

collection tools and publish accessible data, both internal and external users will be better positioned to analyze and use the data. Hazen et al. (2017) note that both data analysis and data use by both internal and external users can be integrated into the data quality process and used as a tool for improving data quality. By increasing the capacity of States to report their data in formats that are both accessible and useable, this Center will aid in the improvement of data quality across the States and ensure equitable access to IDEA data for all stakeholders.

Federal agencies have increasingly used open licensing to expand the impact and reach of materials developed with Federal funds, enable innovative use of those materials, and ensure that those materials and resources are available to the public (U.S Department of State, 2017). Open licensing gives permission to the public to use materials created under the terms of the license and attribute to the creator under copyright law. Pfenninger et al. (2017) noted that the benefit of open licensing allows for the burden of the work to be shared and used more broadly, avoids unnecessary duplication, supports learning to solutions more quickly, and supports learning from one another to get to solutions more quickly, and allows for research to be seen and used. Additionally, open licensing helps to improve educational research opportunities and

systems, given the rapid pace of technological change and ongoing advances.

Data visualizations can be difficult to access for persons with disabilities. This difficulty is not limited to persons who are blind and/or visually impaired, but also impacts those with cognitive and learning disabilities, and those with visual or motor disabilities who do not access their computers with a mouse or touchscreen. These barriers have been amplified by the growing interest in, and use of, infographics and interactive data displays and dashboards on websites and in social media. In addition to difficulty with use, persons with disabilities are often excluded as potential authors and designers of data visualizations due to the inaccessibility of the computer-based tools used to create and publish data displays. Despite legislation, including sections 504 and 508 of the Rehabilitation Act, and Title III of the Americans with Disabilities Act, potential data authors and consumers with disabilities continue to be excluded from the data sharing necessary for equal access and participation in civic conversations, education, advocacy, and employment.

To extend the benefits and opportunities of data visualization equitably and inclusively to all people, new tools must be developed that prioritize access and usability for everyone. Developers and designers should engage with people with disabilities (including developers

and designers with disabilities) to identify and integrate accessibility solutions. Accessibly designed software and data visualizations will increase access for those who have traditionally been excluded and increase opportunities for all consumers and authors to interact with data in new and preferred ways. Following the principles of universal design, everyone benefits when we expand the ability of people with disabilities to use and access information, products, programs, and spaces with greater convenience and enjoyment.

In addition to equitable access and data availability, data reporters face a growing problem of how to meaningfully publish large datasets. Consumers need easy tools for conducting simple analyses, comparing variables, and searching for data-based answers to unique and changing questions. Interactive data visualizations increase confidence in data reliability and provide stakeholders with opportunities to look at data in new ways.

Modern, web-based data visualizations include the ability to select, link, filter, and reorganize data, as well as the delivery of 3-D/multidimensional data representations that can be accessed from multiple perspectives (Cota et al., 2017). Challenges to producing interactive data visualizations include managing visual noise, fitting large amounts of data onto limited screen sizes, and satisfying the high-performance computation

requirements behind dynamic visualizations (Hajirahimova & Ismayilova, 2018). Innovative data interactivity and manipulation solutions can also solve accessibility challenges. Accessibility solutions for static images (which usually involve written descriptions embedded in alt-tags in computer code) should become standard practice, while simultaneously being reimagined to accommodate responsive and animated representations of data.

Proposed Priority:

Under this proposed priority, the Department provides funding for a cooperative agreement to establish and operate the Rhonda Weiss National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Data in Accessible Formats (Accessible Data Center).

The Accessible Data Center will provide TA to help States better meet current and future IDEA Part B and Part C data collection and reporting requirements, improve data quality, and analyze and use the data reported so that they are in accessible formats. The Accessible Data Center's work will comply with the privacy and confidentiality protections in the Family Educational Rights and Privacy Act (FERPA) and IDEA and will not provide the Department with access to child-level data. The Accessible Data Center must achieve at a minimum, the following expected outcomes:

(a) Improved accessibility of the IDEA Part B and Part C data reported and published under IDEA sections 616 and 618;

(b) Increased capacity of States to collect, report, analyze, and use high-quality IDEA Part B and Part C data in accessible formats;

(c) Development of an open license, accessible software program, for the publication of dynamic data products (consistent with the open licensing requirement in 2 CFR 3474.20); and

(d) Development and documentation of a knowledge base related to the accessible reporting and dynamic presentation of data.

In addition, the Accessible Data Center must provide a range of targeted and general TA products and services for improving States' capacity to accurately collect, report, analyze, and use IDEA section 616 and section 618 data in accessible formats for persons with disabilities, particularly those with blindness, visual impairments, motor impairments, and intellectual disabilities. Such TA must include, at a minimum--

(a) Working with the Department to develop open-source electronic tools to assist States in reporting their IDEA data in accessible formats that allow for dynamic visualizations that can be manipulated for persons with and without disabilities. The tools must utilize accessibility

best practices, exceed all Federal accessibility requirements, and be designed to accommodate continued enhancements to meet States' changing needs and updates in accessibility best practice;

(b) Developing a plan to maintain appropriate functionality of the open-source electronic tools described in paragraph (a) as changes are made to data collections, reporting requirements, accessibility best practices, and accessibility requirements;

(c) Developing universal TA products, including a user manual and instructions, and conducting training with State staff on use of the open-source electronic tools; and

(d) Developing white papers and presentations that include tools and solutions to challenges in the collection, reporting, analysis, and use of IDEA data in accessible formats.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under "Significance of the Project," how the proposed project will--

(1) Address State challenges in collecting, analyzing, reporting, and using the IDEA Part B and Part C data reported under IDEA sections 616 and 618 in formats

that are both accessible to persons with visual impairments and/or other disabilities, and also dynamic, to promote enhanced data use that will improve data quality and identify programmatic strengths and areas for improvement.

To meet this requirement the applicant must--

- (i) Demonstrate knowledge of IDEA data collections, including data required under IDEA sections 616 and 618;

- (ii) Demonstrate knowledge of accessible reporting and dynamic visualization, and document areas for further knowledge development;

- (iii) Present information about the difficulties State educational agencies (SEAs), State lead agencies (LAs), local educational agencies (LEAs), early intervention service (EIS) providers, and schools have encountered in meeting the requirements of section 504 of the Rehabilitation Act when reporting IDEA data;

- (iv) Present information about the difficulties SEAs, State LAs, LEAs, EIS providers, and schools have in developing dynamic data visualizations for public use; and

- (2) Improve outcomes in collecting, analyzing, reporting, and using the IDEA Part B and Part C data in formats that are accessible to persons with visual impairments and/or other disabilities.

- (b) Demonstrate, in the narrative section of the application under "Quality of project services," how the proposed project will--

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will--

(i) Identify the needs of the intended recipients and end users for TA and information; and

(ii) Ensure that products and services meet the needs of the intended TA recipients and end users;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide--

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model² by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

² Logic model (34 CFR 77.1) (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.*, the active "ingredients" that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Note: The following websites provide more information on logic models and conceptual frameworks:

https://osepideasthatwork.org/sites/default/files/2021-12/ConceptualFramework_Updated.pdf and

www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.

(4) Be based on current research and use evidence-based practices (EBPs).³ To meet this requirement, the applicant must describe--

(i) The current research on the capacity of SEAs, State LAs, LEAs, and EIS providers to report and use data, specifically section 616 and section 618 data in a manner that allows persons with vision and/or other disabilities, as well as those without, to access and dynamically manipulate data, as both a means of improving data quality and identifying strengths and areas for improvement;

(ii) How it will analyze and incorporate the views of end users regarding the accessibility of tools currently available for data collection, reporting, analysis, and use. Specifically, how it will assess the overall accessibility, data manipulability, and the accessibility

³ For purposes of these requirements, "evidence-based practices" (EBPs) means, at a minimum, demonstrating a rationale (as defined in 34 CFR 77.1) based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes.

of dynamic data visualizations for persons with and without disabilities; and

(iii) How the proposed project will incorporate current research, EBPs, and the needs of end users in the development and delivery of its products and services;

(5) How it will develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe--

(i) How it proposes to identify or develop the knowledge base on the capacity needs of SEAs, State LAs, LEAs, and EIS programs to meet IDEA data collection and reporting requirements, data analysis, and use of the IDEA Part B and Part C data reported under IDEA sections 616 and 618 in a manner that allows individuals with vision and/or other disabilities, as well as those without, to access and dynamically manipulate data;

(ii) Its proposed approach to universal, general TA,⁴ which must identify the intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

⁴ "Universal, general TA" means TA and information provided to independent users through their own initiative, resulting in minimal interaction with Accessible Data Center staff and including one-time, invited or offered conference presentations by Accessible Data Center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the Accessible Data Center's website by independent users. Brief communications by Accessible Data Center staff with recipients, either by telephone or email, are also considered universal, general TA.

(iii) Its proposed approach to targeted, specialized TA,⁵ which must identify--

(A) The intended recipients, including the type and number of recipients, that will receive the products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level; and

(iv) Its proposed approach to intensive, sustained TA,⁶ which must identify--

(A) The intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

(B) Its proposed approach to measure the readiness of SEA, State LAs, LEA, and EIS program/provider personnel to work with the project, including their commitment to the

⁵ "Targeted, specialized TA" means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more Accessible Data Center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

⁶"Intensive, sustained TA" means TA services often provided on-site and requiring a stable, ongoing relationship between Accessible Data Center staff and the TA recipient. "TA services" are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the SEA, State LA, LEA, and EIS program/provider levels;

(C) Its proposed plan for assisting SEAs and State LAs (and LEAs, in conjunction with SEAs and EIS programs/providers, in conjunction with State LAs) to build or enhance training systems to meet IDEA Part B and Part C data collection and reporting requirements in a manner that allows individuals with vision and/or other disabilities, as well as those without, to access and dynamically manipulate data. This includes professional development based on adult learning principles and coaching;

(D) Its proposed plan for working with appropriate levels of the education system (e.g., SEAs, State LAs, regional TA providers, LEAs, EIS providers, schools, and families) to ensure there is communication between each level and there are systems in place to support the capacity needs of SEAs, State LAs, LEAs, and EIS providers to meet IDEA data collection and reporting requirements, as well as support data analysis, and the use of IDEA Part B and Part C data in a manner that allows individuals with vision and/or other disabilities, as well as those without, to access and dynamically manipulate data; and

(E) Its proposed plan for collaborating and coordinating with Department-funded projects, including

those providing data-related support to States, where appropriate, to align complementary work and jointly develop and implement products and services to meet the purposes of this priority. Such Department-funded projects include the IDEA Data Center (IDC), the Center for IDEA Early Childhood Data Systems (DaSy), the Center for IDEA Fiscal Reporting (CIFR), the Center for the Integration of IDEA Data (CIID), EdFacts, and the research and development investments of the Institute of Education Sciences/National Center for Education Statistics; and

(6) Its proposed plan to develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe--

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes.

(c) In the narrative section of the application under "Quality of the project evaluation," include an evaluation plan for the project developed in consultation with and implemented by a third-party evaluator.⁷ The evaluation plan must--

⁷ A "third-party" evaluator is an independent and impartial program evaluator who is contracted by the grantee to conduct an objective evaluation of the project. This evaluator must not have participated

(1) Articulate formative and summative evaluation questions, including important process and outcome evaluation questions. These questions should be related to the project's proposed logic model required in paragraph (b) (2) (ii) of these requirements;

(2) Describe how progress in and fidelity of implementation, as well as project outcomes, will be measured to answer the evaluation questions. Specify the measures and associated instruments or sources for data appropriate to the evaluation questions. Include information regarding reliability and validity of measures where appropriate;

(3) Describe strategies for analyzing data and how data collected as part of this plan will be used to inform and improve service delivery over the course of the project and to refine the proposed logic model and evaluation plan, including subsequent data collection;

(4) Provide a timeline for conducting the evaluation and include staff assignments for completing the plan. The timeline must indicate that the data will be available annually for the annual performance report and at the end of Year 2 for the review process; and

(5) Dedicate sufficient funds in each budget year to cover the costs of developing or refining the evaluation

in the development or implementation of any project activities, except for the evaluation activities, or have any financial interest in the outcome of the evaluation.

plan in consultation with a third-party evaluator, as well as the costs associated with the implementation of the evaluation plan by the third-party evaluator.

(d) Demonstrate, in the narrative section of the application under "Adequacy of resources," how--

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits, and funds will be spent in a way that increases their efficiency and cost-effectiveness, including by reducing waste or achieving better outcomes.

(e) Demonstrate, in the narrative section of the application under "Quality of the management plan," how--

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and

within budget. To address this requirement, the applicant must describe--

- (i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

- (ii) Timelines and milestones for accomplishing the project tasks;

- (2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

- (3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

- (4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

- (f) Address the following application requirements:

- (1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

- (2) Include, in the budget, attendance at the following:

- (i) A one- and one-half day kick-off meeting in Washington, DC, or virtually, after receipt of the award,

and an annual planning meeting in Washington, DC, or virtually, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two- and one-half day project directors' conference in Washington, DC, or virtually, during each year of the project period; and

(iii) Three annual two-day trips, or virtually, to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP;

(3) Include, in the budget, a line item for an annual set-aside of 5 percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Maintain a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility; and

(5) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to this new award period and at the end of this award period, as appropriate.

References:

- Cota, M. P., Rodríguez, M. D., González-Castro, M. R. & Gonçalves, R. M. M. (2017). Analysis of current visualization techniques and main challenges for the future. *Journal of Information Systems Engineering & Management*, 2(3), 19.
<https://doi.org/10.20897/jisem.201719>.
- Hajirahimova, M. S., & Ismayilova, M. I. (2018). Big data visualization: Existing approaches and problems. *Problems of Information Technology*, 1, 65-74.
- Hazen, B. T., Weigel, F. K., Ezell, J. D., Boehmke, B. C., & Bradley, R. V. (2017). Toward understanding outcomes associated with data quality improvement. *International Journal of Production Economics*, 193, 737-747.
- Pfenninger, S., DeCarolís, J., Hirth, L. Quoilin, S., & Staffell, I. (2017). The importance of open data and software: Is energy research lagging behind? *Energy Policy*, 101, 211-215.
<https://doi.org/10.1016/j.enpol.2016.11.046>.

U.S. Department of State. (2017). *Federal Open Licensing Playbook*.

https://eca.state.gov/files/bureau/open_licensing_playbook_final.pdf.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the *Federal Register*. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority and Requirements

We will announce the final priority and requirements in a document in the *Federal Register*. We will determine the final priority and requirements after considering responses to this document and other information available to the Department. This document does not preclude us from proposing additional priorities or requirements subject to meeting applicable rulemaking requirements.

Note: This document does not solicit applications. In any year in which we choose to use this proposed priority and one or more of these requirements, we invite applications through a notice in the *Federal Register*.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) determines whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and review by OMB. Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

OMB has determined that this proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We also have reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing the proposed priority and requirements only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows,

the Department believes that this regulatory action is consistent with the principles in Executive Order 13563. In summary, the potential costs associated with this priority would be minimal, while the potential benefits are significant. The Department believes that this regulatory action does not impose significant costs on eligible entities. Participation in this program is voluntary, and the costs imposed on applicants by this regulatory action will be limited to paperwork burden related to preparing an application. The potential benefits of implementing the program would outweigh the costs incurred by applicants, and the costs of carrying out activities associated with the application will be paid for with program funds. For these reasons, we have determined that the costs of implementation will not be excessively burdensome for eligible applicants, including small entities.

We have also determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as

necessary for administering the Department's programs and activities.

In addition, we have considered the potential benefits of this regulatory action and have noted these benefits in the background section of this document.

Paperwork Reduction Act of 1995

The proposed priority contains information collection requirements that are approved by OMB under OMB control number 1820-0028; the proposed priority does not affect the currently approved data collection.

Clarity of the Regulatory Actions

Executive Order 12866 and the Presidential memorandum "Plain Language in Government Writing" require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make the proposed priority easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulatory actions clearly stated?
- Do the proposed regulatory actions contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulatory actions (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?

- Would the proposed regulatory actions be easier to understand if we divided them into more (but shorter) sections?

- Could the description of the proposed regulatory actions in the SUPPLEMENTARY INFORMATION section of this preamble be more helpful in making the proposed regulatory actions easier to understand? If so, how?

- What else could we do to make the proposed regulatory actions easier to understand?

To send any comments about how the Department could make these proposed regulatory actions easier to understand, see the instructions in the ADDRESSES section.

Regulatory Flexibility Act Certification: The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration (SBA) Size Standards define "small entities" as for-profit or nonprofit institutions with total annual revenue below \$7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000.

The small entities that this proposed regulatory action would affect are LEAs, including charter schools that operate as LEAs under State law; institutions of higher education; other public agencies; private nonprofit

organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations. We believe that the costs imposed on an applicant by the proposed priority would be limited to paperwork burden related to preparing an application and that the benefits of the proposed priority would outweigh any costs incurred by the applicant.

Participation in the Technical Assistance on State Data Collection program is voluntary. For this reason, the proposed priority would impose no burden on small entities unless they applied for funding under the program. We expect that in determining whether to apply for Technical Assistance on State Data Collection program funds, an eligible entity would evaluate the requirements of preparing an application and any associated costs and weigh them against the benefits likely to be achieved by receiving a Technical Assistance on State Data Collection program grant. An eligible entity probably would apply only if it determines that the likely benefits exceed the costs of preparing an application.

We believe that the proposed priority would not impose any additional burden on a small entity applying for a grant than the entity would face in the absence of the proposed action. That is, the length of the applications those entities would submit in the absence of the proposed

regulatory action and the time needed to prepare an application would likely be the same.

This proposed regulatory action would not have a significant economic impact on a small entity once it receives a grant because it would be able to meet the costs of compliance using the funds provided under this program. We invite comments from eligible small entities as to whether they believe this proposed regulatory action would have a significant economic impact on them and, if so, request evidence to support that belief.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the program contact person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille,

large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the *Federal Register* by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Katherine Neas,
*Deputy Assistant Secretary,
delegated the authority to perform
the functions and duties of the
Assistant Secretary for the Office
of Special Education and
Rehabilitative Services.*

[FR Doc. 2022-05716 Filed: 3/15/2022 11:15 am; Publication Date: 3/17/2022]